

TESTIMONY OF  
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Before The

Subcommittee on Administrative Law and Government Relations,  
Committee on the Judiciary, U.S. House of Representatives

April 28, 1983

Mr. Chairman and members of the Subcommittee, I am Eugene Bennett, National President of the Federal Criminal Investigators Association. I appreciate this opportunity to provide the Subcommittee with our views on H.R. 595, "A bill to amend title 28 of the United States Code to provide for an exclusive remedy against the United States in suits based upon acts or omissions of United States employees, to provide a remedy against the United States with respect to constitutional torts, and for other purposes."

At this point I think it would be well to let this Subcommittee know a little bit about who and what we are.

The Federal Criminal Investigators Association was founded almost 30 years ago by a small group of U.S. Treasury Agents in Chicago. By 1969, the Association had grown to include other government agencies. Our membership is composed of criminal investigative personnel of the Federal Bureau of Investigation, Drug Enforcement Administration, Immigration and Naturalization Service, Internal Revenue Service, U.S. Secret Service, U.S. Customs,

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and the Bureau of Alcohol, Tobacco and Firearms, to name a few. The Federal Criminal Investigators Association is dedicated to recognition of criminal investigation as a profession. We have nearly 5000 active members. We publish a monthly newspaper as well as a quarterly journal, Criminal Investigator, with articles and features of interest to the law enforcement community and those interested in criminal justice matters.

H.R. 595 provides, among other things, that the United States shall be the sole defendant in any civil case alleging that a Federal employee violated the constitutional rights of a citizen, and shall pay all damages; thus, the individual employee is immunized from personal liability. Theoretically, the bill applies to all Federal employees; however, since most "Constitutional Torts" arise out of activities relating to law enforcement, the bill will radically affect the financial security and civil liability of Federal law enforcement officers acting within the scope of their employment.

The bill as presently written is commendable, and we fully support its passage, because it seeks to protect the Federal Law Enforcement Officer from personal liability for Constitutional torts. Because of the past history of similar bills before other Congresses, however, we should like to emphasize to this Subcommittee that we deem it absolutely essential to effective law enforcement that the provision of the availability of the "good faith defense" be not compromised.

The importance of the good faith defense cannot be overstated. It is not only protection against frivolous lawsuits, but also assures a climate in which the officer can function freely for effective law enforcement.

This defense was first created by the courts because they recognized the fact that law enforcement work is a difficult, demanding and dangerous business. Officers are often required to make instant decisions as to whether or not they have probable cause to arrest or make a search.

Since "probable cause" is so vague a legal concept that even the courts cannot agree about it, the good faith defense was created to add an extra measure of protection for the officer and to allow him/her to do his/her job free from the fear of harrassing and frivolous law suits. Thus, we urge this subcommittee not to yield to any pressures to eliminate this provision which is founded on sound judicial principles.

We commend you Mr. Chairman, and the members of the Subcommittee, for the wisdom you have shown in drafting H.R. 595, and we fully support passage of this bill.

Mr. Chairman, with your permission, this concludes my formal statement. I will be pleased to answer any questions you may have.